

Exhibit 9

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION
TAYLOR SMART and)
MICHAEL HACKER,)
individually and on)
behalf of all those)
similarly situated,)
Plaintiffs,)
)
vs.) Case No.
) 22-cv-02125-WBS-CSK
NATIONAL COLLEGIATE)
ATHLETIC ASSOCIATION,)
an unincorporated)
association,)
Defendant.)
)
-----)
)
JOSEPH COLON, SHANNON)
RAY, KHALA TAYLOR,)
PETER ROBINSON, and)
KATHERINE SEBBANE,)
individually and on)
behalf of all those)
similarly situated,)
Plaintiffs,)
)
vs.) Case No.
) 23-cv-00425-WBS-CSK
NATIONAL COLLEGIATE)
ATHLETIC ASSOCIATION,)
an unincorporated)
association.)
Defendant.)

PORTIONS OF THE TRANSCRIPT HAVE BEEN
DESIGNATED AS CONFIDENTIAL

ORAL AND VIDEOTAPED DEPOSITION OF

PETER ROBINSON

OCTOBER 17, 2024

1 ORAL AND VIDEOTAPED DEPOSITION OF PETER
2 ROBINSON, produced as a witness at the
3 instance of the Defendant, and duly sworn,
4 was taken in the above-styled and numbered
5 cause on October 17, 2024, from 9:35 a.m. to
6 3:57 p.m., before Donna Wright, CSR in and
7 for the State of Texas, reported by machine
8 shorthand, at the law offices of PERKINS
9 COIE, 405 Colorado Street, Suite 1700,
10 Austin, Texas, pursuant to the Federal Rules
11 of Civil Procedure and the provisions stated
12 on the record or attached hereto.

A P P E A R A N C E S

FOR PLAINTIFFS IN COLON V. NCAA:

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ALSO PRESENT:

Timothy Desadier, Videographer

1 defendant NCAA.

2 MR. GRALEWSKI: Bob Gralewski,
3 Kirby McInerney, on behalf of the
4 witness, Peter Robinson, and the
5 proposed class.

6 MR. ONAYEMI: Yinka Onayemi,
7 counsel for plaintiffs Colon, of
8 Fairmark Partners Law Firm.

9 MR. BROSCHUIS: Garrett
10 Broschuis here in the Smart versus NCA
11 matter for plaintiffs in Smart versus
12 NCA.

13 THE VIDEOGRAPHER: Will the
14 court reporter please swear in the
15 witness and counsel may proceed.

16 PETER ROBINSON,
17 having been first duly sworn, testified as
18 follows:

19 EXAMINATION

20 BY MS. MCCREADIE:

21 Q. Good morning, Mr. Robinson.

22 A. Good morning.

23 Q. We met earlier. My name is
24 Megan McCreadie. I'm from the law firm
25 Munger, Tolls & Olson, and I represent the

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1 Q. (BY MS. MCCREADIE) Do you
2 remember roughly how long you met each time?

3 A. Twice for an hour and then a
4 third and final time for two.

5 Q. And did you speak to anyone
6 besides your counsel about today's
7 deposition?

8 A. No, ma'am.

9 Q. Where did you grow up, Mr.
10 Robinson?

11 A. Coto de Caza, California.

12 Q. Where do you currently live?

13 A. Leander, Texas.

14 Q. Is that near here?

15 A. About 45 minutes.

16 Q. When did you move to Leander?

17 A. 2021.

18 Q. And before that, were you in
19 Charlottesville?

20 A. Yes, ma'am.

21 Q. For roughly how long were you
22 in Charlottesville?

23 A. Approximately two years.

24 Q. What is your current job,
25 Mr. Robinson?

1 A. I'm a swim coach.

2 Q. When did you start swimming?

3 A. 13 years old.

4 Q. And were you swimming
5 competitively at that time?

6 A. Yes, ma'am.

7 Q. Where were you swimming
8 competitively?

9 A. Southern California.

10 Q. For your high school team?

11 A. Yes.

12 Q. For a club team?

13 A. Yes.

14 Q. What did you enjoy about
15 swimming?

16 A. California is -- has many
17 outdoor pools, so just being outside. It's
18 quite a different sport from others.

19 Q. Because you can be outside when
20 competing?

21 A. Yes, ma'am.

22 Q. Did you enjoy the competition?

23 A. Yes, ma'am.

24 Q. What did you enjoy about the
25 competition?

1 Q. Is UVA a better, as in more
2 competitive, swim program than Florida State?

3 A. That is correct.

4 Q. In 2019, at the time you were
5 applying for these volunteer positions, did
6 you apply for any paid coaching positions?

7 A. No.

8 Q. Why not?

9 A. At the time, these two jobs
10 interested me the most.

11 Q. Had you not seen any job
12 postings for paid positions?

13 A. I had.

14 Q. Why didn't you apply to them?

15 A. Charlottesville and
16 Tallahassee, those two programs, seemed to be
17 the most interesting.

18 Q. So you chose to apply to unpaid
19 positions over potentially paid positions?

20 A. That is correct.

21 Q. Did you think you were
22 qualified to be a paid assistant at this
23 point in time?

24 A. Yes.

25 Q. And why is that?

1 Q. So I think you said you took a
2 job to learn from smart people?

3 A. Uh-huh.

4 Q. Is that because the coaches for
5 UVA were one of the best programs in the
6 country?

7 A. At the time, they had not won
8 any women's national titles.

9 Q. Were they still particularly
10 competitive?

11 A. Relatively, yes.

12 Q. And did you believe them to be
13 one of the best programs in the country at
14 the time?

15 A. They were good at the time, not
16 one of the best.

17 Q. Did you apply for a job at one
18 of the best?

19 A. No.

20 Q. Why not?

21 A. I did not see a job listing.

22 Q. Did you take the experience to
23 be able to gain experience to move up the
24 coaching ladder?

25 THE REPORTER: Able to gain --

1 Interrogatory No. 6.

2 A. Okay.

3 Q. It says, "For each of you
4 individually, identify all paid
5 sports-related positions to which you applied
6 and the compensation for these positions,"
7 correct?

8 A. Correct.

9 Q. Okay. And then on the next
10 page, page 11, there is a section that says,
11 "Plaintiff, Peter Robinson," which is you,
12 and it says, "Mr. Robinson applied for the
13 following position to the University of Santa
14 Barbara to serve as a swimming coach where
15 the salary was \$45,000 per year."

16 Is that correct?

17 A. Correct.

18 Q. And this is accurate, this is
19 the only paid D1 coaching position to which
20 you applied?

21 A. That is correct.

22 Q. When did you apply to this
23 position?

24 A. Spring of '21.

25 Q. So either while you were about

1 to end your volunteer position or right after
2 your volunteer position?

3 A. I believe I was still in the
4 position.

5 Q. Okay. But you were looking for
6 a job because the volunteer -- you knew the
7 volunteer position was about to end?

8 A. Yes.

9 Q. Okay. Santa Barbara is a D1
10 program, correct?

11 A. Yes.

12 Q. And why did you apply to Santa
13 Barbara specifically?

14 A. I grew up up near the area and
15 knew people who had swam in the program and
16 spoke highly of it.

17 Q. Did you interview with anyone
18 at Santa Barbara?

19 A. Yes.

20 Q. Who did you interview with?

21 A. Head coach at the time, Matt
22 Macedo.

23 Q. Were you offered the position?

24 A. No.

25 Q. Did you ever hear anything

1 about why you weren't offered the position?

2 A. I withdrew my application after
3 the first-round interview.

4 Q. Why did you withdraw your
5 application?

6 A. I received a job offer for
7 Waterloo Swimming.

8 Q. Excuse me.

9 And Waterloo Swimming is a club
10 in the Austin area; is that correct?

11 A. That is correct.

12 Q. And why did you withdraw your
13 application from Santa Barbara upon receiving
14 the offer from Waterloo?

15 A. I had spent the last two years
16 in a long-distance relationship with my
17 girlfriend, now wife, and we made the
18 decision to take the job that would bring me
19 back to her.

20 Q. And she was, I take it, based
21 in the Austin area?

22 A. That is correct.

23 Q. What does she do?

24 A. She's a consultant.

25 Q. Can she move for her job?

1 A. Yep.

2 Q. Do you think coaches at UVA,
3 swim coaches at UVA are expected to have
4 different skills than coaches at UC Santa
5 Barbara?

6 MR. GRALEWSKI: Foundation.
7 Speculation.

8 THE WITNESS: I can't say.

9 Q. (BY MS. MCCREADIE) Why not?

10 MR. GRALEWSKI: Same
11 objections.

12 THE WITNESS: I only had brief
13 conversations with the Santa Barbara
14 coach, mainly talking about my
15 background. I would assume further
16 interview rounds and experience with
17 that coach would reveal those details.

18 Q. (BY MS. MCCREADIE) So you have
19 never received an offer to be a paid D1
20 coach; is that correct?

21 A. Correct.

22 MR. GRALEWSKI: Asked and
23 answered.

24 Q. (BY MS. MCCREADIE) Do you
25 believe you had -- did you have the skills

1 UVA and you had one spot to fill, would you
2 have hired you or Courtney Caldwell?

3 MR. GRALEWSKI: Object to form.
4 Incomplete hypothetical. Calls for
5 speculation.

6 THE WITNESS: I'm not -- I
7 can't answer.

8 Q. (BY MS. MCCREADIE) Does the
9 head coach typically make a decision as to
10 who is hired as an assistant coach?

11 A. Yes.

12 Q. And you have worked with a
13 number of different head coaches, whether at
14 UVA or swim clubs, right?

15 A. Yes.

16 Q. In your experience, do
17 different head coaches have different views
18 about who is a better coach?

19 MR. GRALEWSKI: Lacks
20 foundation. Calls for speculation.

21 THE WITNESS: "Better" is very
22 subjective.

23 Q. So different head coaches might
24 value different skill sets in assistant
25 coaches.

1 Would that be fair to say?

2 MR. GRALEWSKI: Speculation.

3 Foundation. Overbroad.

4 THE WITNESS: For any job in

5 any field, I would assume so.

6 Q. (BY MS. MCCREADIE) And

7 different swim teams or swim clubs might have

8 different coaching needs at any particular

9 time; is that correct?

10 A. I would imagine, yes.

11 Q. And different swim coaches are

12 going to have different sets of skills that

13 might enable them to meet or not meet those

14 needs, correct?

15 A. As with any job market in any

16 field, yes.

17 Q. So which assistant coach a head

18 swimming coach decides to hire for any

19 particular position is going to depend on

20 which coaching skills they value, correct?

21 MR. GRALEWSKI: It's overbroad.

22 It's vague and ambiguous. It lacks

23 foundation and calls for speculation.

24 THE WITNESS: I have never been

25 a head coach, so I would not know.

1 A. The owner, Mike Koleber, is
2 very energetic, really strives for that deep
3 connection, even at an athletic facility with
4 1,200 members. They also pay you a salary,
5 health insurance, 401(k). So for a young
6 adult who just went through two years of not
7 even breaking even every month, it was very
8 attractive.

9 Q. At Waterloo, were you being
10 paid a salary or were you being paid hourly?

11 A. Hourly.

12 Q. Do you remember how much you
13 were being paid?

14 A. I do not.

15 Q. Did you get other benefits at
16 Waterloo?

17 A. No.

18 Q. Switching to Nitro, you still
19 work at Nitro, correct?

20 A. Correct.

21 Q. And what are your job duties at
22 Nitro?

23 A. I am the head age group coach,
24 so everything ages 12 and under is my
25 specific purview.

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1 Q. And that's for all swimmers who
2 happen to take classes at Nitro?

3 A. That is correct.

4 Q. How many such swimmers are
5 there?

6 A. About 800.

7 Q. Is it a full-time position?

8 A. It is.

9 Q. And you're paid salary. How
10 much is your salary currently?

11 A. I assume this is all
12 confidential, right?

13 MR. GRALEWSKI: It is, it is.

14 And while we're on the record, I'll
15 just take the opportunity to mark this
16 confidential pursuant -- the
17 transcript confidential pursuant to
18 the protective order.

19 And you should answer the
20 question.

21 THE WITNESS: Okay. 70,000.

22 Q. (BY MS. MCCREADIE) And you get
23 benefits?

24 A. Yes.

25 Q. What benefits do you get it?

1 A. Medical, dental, vision,
2 401(k).

3 Q. They have 401(k) matching?

4 A. Yes.

5 Q. How many hours a week do you
6 generally work?

7 A. It varies.

8 Q. How does it vary? Is it
9 seasonal?

10 A. Competitions.

11 Q. So what would be the lowest
12 number of hours you would work in a week?

13 A. 40.

14 Q. What would be the most?

15 A. 70.

16 Q. And that would be in weeks
17 where you have competitions?

18 A. Yeah.

19 Q. Do you travel for competitions,
20 at least sometimes?

21 A. Yes.

22 Q. Where do you -- do you travel
23 nationally?

24 A. No.

25 Q. Within Texas?

1 to do with the school, location,
2 program.

3 Q. (BY MS. MCCREADIE)

4 Compensation?

5 A. As with any job, yes.

6 Q. So it sounds like there are
7 some situations and some D1 schools for which
8 you would prefer to remain -- rather than
9 being a coach there, you would remain at
10 Nitro?

11 A. I'm sorry, I was reading this.
12 Please repeat.

13 Q. So it sounds like you would
14 choose to remain at Nitro over at least some
15 D1 coaching positions, depending on the
16 circumstances?

17 A. Ostensibly.

18 Q. All right. Is coaching at
19 Nitro different than coaching swimming in
20 Division I?

21 A. Yes.

22 Q. Is that for the same reasons we
23 have discussed in connection with Waterloo?

24 A. Yes. It's just such a higher
25 caliber of athlete and environment. I mean,

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1 Q. I'm going to introduce an
2 exhibit. That's going to be Exhibit 34.

3 (Exhibit 34 marked)

4 Q. It's Robinson_000000011. It is
5 also marked highly confidential.

6 So, Mr. Robinson, is this a
7 copy of your 2022 W-2 from Nitro Swimming?

8 A. Yes.

9 Q. Okay. And it shows in gross
10 pay, in the top right area, that you made
11 \$50,000 -- \$50,225.89; is that correct?

12 A. Correct.

13 Q. So that's more than the salary
14 at the position at which -- to which you
15 applied at UC Santa Barbara, correct?

16 A. Yes.

17 Q. The next exhibit, this is
18 Exhibit 35, Bates No. Robinson_12 -- sorry,
19 Robinson_000000012. It is also marked highly
20 confidential.

21 (Exhibit 35 marked)

22 Q. This is a copy of your 2023 W-2
23 from Nitro Swimming, correct?

24 A. Correct.

25 Q. It shows gross pay of

1 \$58,530.90; is that correct?

2 A. Correct.

3 Q. And that is, again, more than
4 the salary of the position to which you
5 applied at UC Santa Barbara?

6 A. Correct.

7 Q. And you also previously
8 testified that your current salary for the
9 year 2024 is about \$70,000, correct?

10 A. Correct.

11 Q. That is, again, more than the
12 salary of the position to which you applied
13 at UC Santa Barbara?

14 A. Correct.

15 Q. And you have not applied to any
16 other D1 coaching positions since you applied
17 to the position at UC Santa Barbara in 2021,
18 correct?

19 A. Correct.

20 Q. Is one of the reasons you
21 haven't applied for more D1 coaching
22 positions is that you expect to make more or
23 just as much in your current job as you would
24 in D1 coaching positions?

25 A. Repeat, please.

1 Q. Is one of the reasons you have
2 not applied for any additional D1 coaching
3 positions since that time that you expect to
4 make more or as much at your current job than
5 you would in the D1 coaching position?

6 A. Yes.

7 Q. Have you had any other sources
8 of income besides Waterloo or Nitro since you
9 left UVA?

10 A. No.

11 Q. Do you do any private coaching?

12 A. Yes, but it's part of Nitro.
13 That's included in my wages.

14 Q. Okay, okay, I get it.

15 But that's like -- so many of
16 the sessions you may lead are group sessions,
17 but you also sometimes do one-on-one
18 sessions?

19 A. Yes.

20 Q. Got it.

21 What circumstances do you do
22 one-on-one sessions?

23 A. Depends. A parent will reach
24 out and schedule a session.

25 Q. And will you generally agree to

UNITED STATES DISTRICT COURT
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REPORTER'S CERTIFICATION OF THE ORAL
DEPOSITION OF PETER ROBINSON
OCTOBER 17, 2024

I, Donna Wright, a Certified Shorthand
Reporter and Notary Public in and for the
State of Texas, hereby certify to the

1 following:

2 That the witness, PETER ROBINSON, was
3 duly sworn by the officer and that the
4 transcript of the oral deposition is a true
5 record of the testimony given by the witness;

6 That the original deposition was
7 delivered to Mr. Robert Gralewski;

8 That a copy of this certificate was
9 served on all parties and/or the witness
10 shown herein on _____;

11 I further certify that pursuant to FRCP
12 Rule 30(3) that the signature of the
13 deponent:

14 __X__ was requested by the deponent or
15 a party before the completion of the
16 deposition and that the signature is to be
17 before any notary public and returned within
18 30 days from date of receipt of the
19 transcript. If returned, the attached
20 Changes and Signature Page contains any
21 changes and the reasons therefore:

22 ____ was not requested by the deponent
23 or a party before the completion of the
24 deposition.

25 I further certify that I am neither

1 counsel for, related to, nor employed by any
2 of the parties or attorneys in the action in
3 which this proceeding was taken, and further
4 that I am not financially or
5 otherwise interested in the outcome of the
6 action.

7 Certified to by me on this, the 5th
8 day of November, 2024.

9
10
11 
12

DONNA WRIGHT, Texas CSR 1971

13 Expiration Date: 11/30/24

VERITEXT LEGAL SOLUTIONS

14 300 Throckmorton Street

Ft. Worth, Texas 76102

15 Firm Registration No. 571
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